IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

FRIDAY, THE 17TH AUGUST 2007 / 26TH SRAVANA 1929

CRL.A.No. 326 of 2001()

CC.1097/1997 of JUDL. MAGISTRATE OF FIRST CLASS-II, HOSDRUG
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APPELLANT:

M/S.PRAGATHI MARKETING AND
FINANCIAL SERVICES, KANHANGAD,
REP. BY ITS MANAGING PARTNER,
P.V.PAVITHRAN, AGED 32 YEARS,
S/O.LATE P.V.KUNHIRAMAN,
RESIDING AT VITTADUKKAM,
HOSDURG VILLAGE.

BY ADV. SRI.M.THAMBAN
SMT.T.SUDHAMANI

RESPONDENTS:
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1. M/S.CHEMS INDIA, DOOR NO.11/208A,
CHALINGAL MOTTA, PERIYA.

2. A.A.MOIDEEN KUNHI,
AGED 42 YEARS, S/O. ABDUL RAHIMAN,
MANAGING PARTNER, M/S. CHEMS INDIA,
RESIDING AT ZARA MANZIL,
NEAR RAILWAY STATION,
KANHANGAD BALLA VILLAGE.

3. P.V.BEEFATHIMA,
AGED 53 YEARS, W/O.MOIDEENKUNHI,
PARTNER, M/S.CHEMS INDIA,
ZARA MANZIL, NEAR RAILWAY STATION,
KANHANGAD, BALLA VILLAGE.

4. STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

BY ADV. SRI.A.K.SRINIVASAN
SRI.N.S.MOHAMMED USMAN
PUBLIC PROSECUTOR, SRI AMJAD ALI

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 17/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.R.UDAYABHANU, J.

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Crl.A.No.326 of 2001(C)

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Dated this the 17th day of August, 2007

J U D G M E N T

The appellant is the complainant in C.C.No.1097/1997 in the file of the Judicial Magistrate of the First Class-II, Hosdurg, with respect to the proceedings initiated under Section 138 of the Negotiable Instruments Act. The accused was acquitted under Section 256(1) of the Code of Criminal Procedure. It is submitted that the lapse was occasioned due to unavoidable circumstances.

In the circumstances, the order of acquittal is set aside. The court below is directed to permit the appellant/complainant to further pursue the matter and dispose of the case on merits. The appellant shall appear before the court below on 18/09/2007. The court below shall issue fresh summons to the accused.

The appeal is allowed.

K.R.UDAYABHANU,
Judge

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K.R.UDAYABHANU, J.

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Crl.A.No.326 of 2001(C)

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J U D G M E N T

17th August, 2007